rates to be charged. Petitioner was arrested for operating a public elevator and purchasing grain without such a license. In *habeas corpus* proceedings he questions the constitutionality of the act. *Held,* that so far as petitioner was concerned, the act was constitutional. *State ex. rel. Gaulke* v. *Turner,* (N. Dak. 1917), 164 N. W. 924.

What is due exercise of the police power is in every case a question of fact, hence a discussion of authorities is rather unsatisfactory. To judge the evils attacked by a statute or the importance of the question in state life, knowledge of local conditions, rather than law, is requisite. With such a fertile field for distinguishing cases it seems rather unnecessary for the court to go to the trouble of trying to overrule the recent case of *Adams* v. *Tanner, Atty. Gen. of Wash.,* 244 U. S. 590. While the majority of the court there held unconstitutional a statute doing away with private employment agencies, it was conceded, in view of *Murphy* v. *California,* 225 U. S. 623, that non-useful occupations may be prohibited even before the evil is flagrant, if the occupation is harmful to the public according to local conditions or the manner in which it is conducted. It was for the court here only to discuss the evil instead of taking it for granted. Running a public warehouse or dealing in grain would seem to be, like transportation, "clothed with a public interest" and consequently especially liable to legislative regulation. *Munn* v. *Illinois,* 94 U. S. 113; *Ruggles* v. *Illinois,* 108 U. S. 526. The limitation of the farmers' market would seem to present a greater argument against the constitutionality of the statute. But as no farmer was before the court, petitioner was not alowed to attack the statute as an undue limitation of the farmers' rights. The court cites no authority for this proposition.

CONSTITUTIONAL LAW—RIGHT OF WOMEN TO VOTE.—The constitution of Indiana provides that in all elections not otherwise provided for by the constitution, every male citizen of the age of 21 years and upward shall be entitled to vote. The legislature passed an act extending the privilege of voting to persons not named in the constitution. *Held,* since the right of suffrage is not inherent or natural and is held only by those upon whom it is bestowed by express constitutional grant, the legislative act is unconstitutional and void. *Board of Election Com'rs of City of Indianapolis* v. *Knight,* (Ind. 1917), 117 N. E. 565.

This decision was forecasted by two earlier Indiana decisions involving the same constitutional question, where it was held that that which is expressed negatives that which is not expressed. *Gougar* v. *Timberlake,* 148 Ind. 38. A constitutional declaration as to how a right may be exercised impliedly prohibits its exercise in some other way, under the rule that *expressio unius est exclusio alterius. State* v. *Patterson,* 181 Ind. 660. Cooley, (CONSTITUTIONAL LIMITATIONS, 7th ed., 99), was of the same opinion. The legislature has no general power to confer the elective franchise on classes other than those to whom it is given by the constitution, since its description of those who are entitled to vote is regarded as excluding all others. Kansas, New Jersey, New York, Utah, and Pennsylvania follow the Indiana rule. *Wheeler* v. *Brady,* 15 Kas. 26; *Kimball* v .*Hendee,* 57 N. J. L. 307; *In Re Gage,* 141

N. Y. 112; *Anderson* v. *Tyree,* 12 Utah 129; *McCafferty* v. *Guyer,* 59 Pa. 109. The Supreme Court of the United States said, in construing Sec. 2, Art. 3, of the Federal Constitution which confers original jurisdiction on that court, that the affirmative words, declaring in what cases the Supreme Court should have original jurisdiction, must be construed negatively as to all other cases. Applying the same principle of construction to the instant case, it follows that those designated in the constitution shall be the only persons entitled to vote, excluding all others. The instant case does not mention *State* v. *French* (Ohio, 1917), 117 N. E. 173, which held a similar act valid. See 16 MICH. LAW REV. 125. In that case the court held that the constitutional section was merely inclusive but did not exclude others whom the legislature saw fit to include; i. e. the constitutional requirement was not exclusive of all others. In accord with Ohio are Illinois, Nebraska, and Washington. *Scown* v. *Czarnecki,* 264 Ill. 305; *State* v. *Cones,* 15 Neb. 444; *Holmes & Bull Furniture Co.* v. *Hedges,* 13 Wash. 696. Wisconsin and Michigan have decisions both ways. From the above cases it will be seen that as yet there is no weight of authority and that within the same year (1917) the Ohio and Indiana courts have handed down conflicting opinions.

CRIMINAL LAW—COMMENTS BY COUNSEL—FAILURE TO PRODUCE WITNESSES.—In his closing argument to the jury, counsel for the state remarked that it was accused's duty to bring in as witnesses two persons who had been jointly indicted with accused, but who had not as yet been brought to trial. The court, after presentation of authorities, overruled an objection to the propriety of such remark. *Held,* statements of counsel together with the ruling of the court thereon constituted prejudicial and reversible error. *People* v. *Munday,* (Ill., 1917), 117 N. E. 286.

It may be stated as a general proposition that no inference can be drawn from the failure of a defendant to call witnesses which are equally accessible to the state. WIGMORE, EVIDENCE, § 288. Such is the rule in Illinois, *People* v. *Munday, supra,* accused's co-defendants being considered equally available to the state. In a few jurisdictions, however, mere reference to the failure of co-defendants to testify does not constitute error. *People* v. *Ye Foo,* 4 Cal. App. 730; *State* v. *Madden,* 170 Ia. 230. Some courts have allowed reference to the failure of co-defendants to testify, and, also, have permitted counsel to draw inferences therefrom as to the guilt or innocence of the accused. *McElwain* v. *Commonwealth,* 146 Ky. 104; *State* v. *Matthews,* 98 Mo. 125; *People* v. *Ruef,* 14 Cal. App. 576. Other courts in which the precise question has come up for decision have held to the contrary. *Harville* v. *State,* 54 Tex. Crim. 426; *Brock* v. *State,* 123 Ala. 24. In Missouri, where such comment was permissible, a statute has been passed forbidding comment on the failure of co-defendants to testify, but this statute has not been extended to a case in which the witness was charged in a separate information with an offense growing out of the same transaction as that in which the defendant was involved. *State* v. *Shepherd,* (Mo., 1917), 192 S. W. 427. However justifiable the position of those courts which allow comment on the absence of co-defendants may be, it seems clear that when